**THE HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.7757 of 2007**

**Dated:22.08.2007**

**Between:**

Nalla Shankar, S/o.B.Laxmaiah,
and others.

…Petitioners

and

The Revenue Divisional Officer,
Mancherial, Adilabad District,
and others.

…Respondents

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.7757 of 2007**

**ORDER:**

The petitioners filed this Writ Petition assailing the appellate order of the first respondent dated 11.12.2006 whereby and whereunder the order of the second respondent dated 08.05.2006 was set aside, and the matter was remanded to the original authority for *de novo* enquiry.

The brief fact of the matter is that the petitioners filed an application before the second respondent on 19.04.2006 claiming that they have purchased the land admeasuring Acs.6.39 guntas in Survey No.344 situated at Mancherial under registered sale deeds and sought for necessary changes in the record of rights and implementation in the revenue records. When the same was not taken up, the petitioners filed a Writ Petition, being W.P.No.8260 of 2006. The same was disposed of on 24.04.2006 directing the second respondent to pass appropriate orders within a period of six weeks. In obedience thereto, the second respondent passed orders on 08.05.2006 directing to implement the registered sale deeds in the revenue records in favour of the petitioners. The third respondent then appealed to the first respondent, *inter alia*, on the ground that the petitioners had no title to the subject property, and that the second respondent did not afford any opportunity before granting

mutation in favour of the petitioners. By impugned order, the first respondent set aside the order of the second respondent and remanded the matter.

Learned Counsel for the petitioners submits that when the order of the Mandal Revenue Officer was set aside on the ground that there was no proper opportunity to the third respondent, the Mandal Revenue Officer ought not to have gone into the merits of the case with regard to title of the property. He secondly submits that the petitioners already filed a suit, being O.S.No.94 of 2006, on the file of the Court of the Senior Civil Judge, Asifabad, for injunction, in which the third respondent filed a counter claim for title, and therefore, the first respondent ought not to have gone into the merits of the case.

Learned Assistant Government Pleader for Revenue (General-T) submits that when the matter was remanded on the ground that the third respondent had no opportunity, it was not necessary to go into the merits of the case.

The first respondent framed three points for consideration, namely: i) Whether Smt.Tarahai and others have got title over the land in Sy.No.344 to an extent of Acs.6.39 gts; ii) Whether Sri Vasanth and Prakash are the Legal heirs of Bhagavantham and got title over the land in Sy.No.344 of Mancherial; and iii) Whether the Mandal Revenue Officer, Mancherial has rightly given opportunity to the concerned persons and passed orders or not?

On point No.3, the first respondent came to the conclusions as below.

> Point 3: The Mandal Revenue Officer, Mancherial has passed orders vide Proc.No.B/3057/2006, Dt:08.05.2006. On verification of records the appellant has filed petition on 31.03.2006 before the Revenue Divisional Officer, Mancherial vide Lr.No.G/619/2006 Dt.01.04.2006. The respondents approached the Hon'ble High Court, Hyderabad, to take appropriate action on the petition. The Hon'ble High Court in its order dt.24.04.2006 issued instructions to the Mandal Revenue Officer, Mancherial to dispose of the petition within (2) weeks. The Collector, Adilabad, vide Lr.No.A1/2172/2006, dated 06.05.2006 also issued instructions to dispose petition under provisions of the Act.
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> As seen from the record, the Mandal Revenue Officer, Mancherial has passed orders on 08.05.2006 without giving opportunity or notice to the appellant. The Mandal Revenue Officer, Mancherial has to issue notice to the concerned persons for claiming objections within (15) days time. But the Mandal

Revenue Officer, Mancherial has not given opportunity to the concerned persons.

When it was found that the third respondent was not given opportunity by the second respondent while implementing the sale deeds in the revenue records, as rightly submitted by the learned Counsel on both sides, there was no necessity for the first respondent to decide points
1 and 2. Therefore, though this Court is not inclined to interfere with the order, be it observed that when the matter is taken up by the second respondent, he shall necessarily issue notice to the third respondent, hear him and also decide the matter without in any manner being influenced by the observations or findings made/recorded by the first respondent. It is always open to the petitioners to bring to the notice of the second respondent about the pendency of the suit. Now that the matter is remanded, the second respondent may dispose of the matter within a period of eight weeks, if not already disposed of, from the date of receipt of a copy of this order.

The Writ Petition is accordingly, disposed of. No costs.

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(V.V.S.RAO, J)

22.08.2007
vs